FRAMEWORK AGREEMENT
ON
INTEGRATED CROSS-BORDER MARITIME
LAW ENFORCEMENT OPERATIONS
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF CANADA

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA and **THE GOVERNMENT OF CANADA** (hereinafter "the Parties");

CONSIDERING that it is in the common interest of both countries to enhance their border co-operation;

RECOGNISING the principle of sovereignty of states;

RECOGNISING the importance of respecting fundamental rights and freedoms notably privacy;

COMMITTED to the prevention, detection, suppression, investigation, and prosecution of any criminal offence or violation of law related to border enforcement including, but not limited to, the illicit drug trade, migrant smuggling, trafficking of firearms, the smuggling of counterfeit goods and money, and terrorism;

DESIRING Integrated Cross-Border Maritime Law Enforcement operations to be intelligence-driven, based on joint United States-Canada threat and risk assessment and coordinated with existing cooperative cross-border policing programs and activities;

RECALLING their continuing cooperation and record of successful partnership in pursuing seamless law enforcement operations at their shared border; and

COGNISANT of the reciprocal nature of this Agreement;

HAVE AGREED as follows:

ARTICLE 1

Purpose of the Agreement

The purpose of this Agreement is to provide the Parties additional means in shared waterways to prevent, detect, suppress, investigate, and prosecute criminal offences or violations of law including, but not limited to, illicit drug trade, migrant smuggling, trafficking of firearms, the smuggling of counterfeit goods and money, and terrorism.

ARTICLE 2

Definitions

1. **"Designated cross-border maritime law enforcement officer"** means: an individual designated or appointed pursuant to Article 6.

2. **"Host country"** means: the Party in whose territory an activity in the context of integrated cross-border maritime law enforcement operations is taking place.

3. "**Integrated cross-border maritime law enforcement operation"** means: the deployment of a vessel crewed jointly by designated cross-border maritime law enforcement officers from the United States and Canada for law enforcement or related purposes in shared waterways.

4. **"Participating agency"** means: an agency directly participating in integrated cross-border maritime law enforcement operations.

5. **"Shared waterways"** means: undisputed areas of the sea or internal waters along the international boundary between the United States and Canada.

ARTICLE 3

Scope of Integrated Cross-Border Maritime Law Enforcement Operations

1. Integrated cross-border maritime law enforcement operations shall only take place in shared waterways except as otherwise provided by this Article.

2. Designated cross-border maritime law enforcement officers shall only enforce the domestic laws of the host country within which they find themselves as directed by a designated cross-border maritime law enforcement officer of the host country.

3. In urgent and exceptional circumstances designated cross-border maritime law enforcement officers may continue activities undertaken in the course of an integrated cross-border maritime law enforcement operation on land adjacent to shared waterways.

4. For the purposes of this Article, urgent and exceptional circumstances include circumstances in which a designated cross-border maritime law enforcement officer has reasonable grounds to suspect that the continuation of the activities undertaken in the course of integrated cross-border maritime law enforcement operations on land adjacent to shared waterways is necessary to prevent:

   (a) imminent bodily harm or death to any person;

   (b) the immediate and unlawful flight of persons liable to detention or arrest; or

   (c) the imminent loss or imminent destruction of evidence.

5. In all instances where designated cross-border maritime law enforcement officers continue activities on land adjacent to shared waterways they shall notify the appropriate host country law enforcement authorities as soon as operationally practicable.

ARTICLE 4

Direction of Integrated Cross-Border Maritime Law Enforcement Operations

Integrated cross-border maritime law enforcement operations shall only be carried out as directed by a designated cross-border maritime law enforcement officer of the host country.

ARTICLE 5

Central Authorities

1. The Parties designate the following central authorities to co-ordinate the implementation of this Agreement:

   (a) The Government of Canada designates the Commissioner of the Royal Canadian Mounted Police or his or her designate as its Central Authority.

   (b) The Government of the United States designates the Commandant of the United States Coast Guard or his or her designate as its Central Authority.

2. A Party may change the designated Central Authority upon written notification thereof to the other Party.

ARTICLE 6

Designation

1. The Central Authority for the United States may appoint or arrange for the appointment of an individual as a designated cross-border maritime law enforcement officer who is a:

   (a) member of the Royal Canadian Mounted Police; or

(b) police officer appointed or employed under the law of a province of Canada and who has:

(i) been recommended for appointment by the Central Authority for Canada; and

(ii) satisfactorily completed all the required training for appointment as a designated cross-border maritime law enforcement officer in accordance with Article 7(1)(a).

2. The Central Authority for the United States may appoint or arrange for the appointment of an individual as a designated cross-border maritime law enforcement officer who is a pilot, co-pilot, observer or other member of the crew of an aircraft operated by the Royal Canadian Mounted Police or a police service established under the law of a province of Canada providing aerial support to an integrated cross-border maritime law enforcement operation who has:

(a) been recommended for appointment by the Central Authority for Canada; and

(b) satisfactorily completed all the required training for appointment as a designated cross-border maritime law enforcement officer in accordance with Article 7(1)(b).

3. The Central Authority for Canada may appoint an individual as a designated cross-border maritime law enforcement officer who is:

(a) a commissioned, warrant, or petty officer of the United States Coast Guard; or

(b) a police officer or other law enforcement officer appointed or employed under the law of the United States of America or of a State of the United States of America and who has:

(i) been recommended for appointment by the Central Authority for the United States; and

(ii) satisfactorily completed all the required training for appointment as a designated cross-border maritime law enforcement officer in accordance with Article 7(1)(a).

4. The Central Authority for Canada may appoint an individual as a designated cross-border maritime law enforcement officer who is a pilot, co-pilot, observer or other member of the crew of an aircraft operated by the United States Coast Guard or a police service or other law enforcement agency of the United States of America or of a State of the United States of America providing aerial support to an integrated cross-border maritime law enforcement operation who has:

(a) been recommended for appointment by the Central Authority for the United States; and

(b) satisfactorily completed all the required training for appointment as a designated cross-border maritime law enforcement officer in accordance with Article 7(1)(b).

5. A designation under this Article shall remain in force until it is suspended, revoked or withdrawn.

6. A cross-border maritime law enforcement officer designated under paragraphs 1 and 2 of this Article shall have the powers of a Customs Officer (excepted) in accordance with United States law while operating in the United States.

7. A cross-border maritime law enforcement officer designated under paragraphs 3 and 4 of this Article shall have the powers of a peace officer in accordance with Canadian law while operating in Canada.

8. Each Party shall establish and promulgate a single document setting out the policies that apply to integrated cross-border maritime law enforcement operations and training for and in their respective territories.

ARTICLE 7

Training

1. The Central Authorities shall coordinate the development of and approve a joint training program for designated cross-border maritime law enforcement officers that includes training on the applicable laws, regulations, constitutional considerations and policies of both Parties, and in particular, depending on the anticipated role of the integrated cross-border maritime law enforcement officer, those pertaining to:

   (a) the use of force, marine safety, operational procedures and protection of informants and other sensitive information; and

   (b) aviation regulations and flight safety procedures.

2. The Central Authorities shall, from time to time, review the joint training program.

ARTICLE 8

Customs and Immigration Reporting

To facilitate integrated cross-border maritime law enforcement operations, the Parties shall provide designated cross-border maritime law enforcement officers alternative mechanisms to meet customs and immigration reporting requirements between ports of entry.

ARTICLE 9

Work Permits

To facilitate integrated cross-border maritime law enforcement operations, each Party shall, to the extent required by its domestic law, provide exemptions from work permit requirements to designated cross-border maritime law enforcement officers.

ARTICLE 10

Custody of Persons, Vessels, or Things Detained or Seized

1. In all cases where a person, vessel, or thing is detained or seized, during the course of an integrated cross-border maritime law enforcement operation, such person, vessel, or thing shall be dealt with in accordance with the laws of the host country.

2. In no case shall any person, vessel, or thing detained or seized in the host country be removed from the host country except in accordance with the laws of the host country.

3. Paragraph 2 shall not apply in respect of any vessel or thing detained or seized in the host country in situations of operational or geographical necessity including when:

   (a) before delivering the vessel or thing that was lawfully seized to the place where the vessel or thing is to be delivered in the host country, designated integrated cross-border maritime law enforcement officers are required to participate in continuing integrated cross-border maritime law enforcement activities or respond to an emergency in the waters of the other Party;

   (b) due to poor weather or mechanical difficulties with a vessel operated by designated integrated cross-border maritime law enforcement officers it is necessary to transit through the waters of the other Party in order to reach the nearest port; or,

   (c) the navigable shipping channels between the location in the host country where the vessel or thing was lawfully seized and the place where the vessel or thing is to be delivered in the host country pass through the waters of the other Party.

4. In situations of operational or geographical necessity described in paragraph 3 when a vessel or thing lawfully seized in the host country is transported through the waters of the other Party, that vessel or thing remains under the physical custody and control of the designated cross-border law enforcement officer of the host country.

ARTICLE 11

Accountability

1. While engaging in integrated cross-border maritime law enforcement operations a designated cross-border maritime law enforcement officer shall be subject to the domestic laws of the Party in whose territory any criminal misconduct is alleged to have occurred and be subject to the jurisdiction of the courts of that Party subject to the rights and privileges that a law enforcement officer from the host country would be able to assert in the same situation and subject to the rights and privileges that the host country would be able to assert in the same situation.

2. Any claim submitted for damage, harm, injury, death or loss resulting from an integrated cross-border maritime law enforcement operation carried out by a Party under this Agreement shall be resolved in accordance with the domestic law of the Party to which the claim is brought and with international law. The Parties shall consult at the request of either Party with a view to resolving the matter and deciding any questions relating to compensation or payment.

3. Each Party shall make best efforts to ensure the cooperation of designated cross-border maritime law enforcement officers with any investigation, inquest or hearing that relates to an internal investigation or is held by a civilian oversight body into the exercise of enforcement powers by such officers, subject to the rights and privileges that a law enforcement officer from the country in which the investigation or proceeding takes place would be able to assert in the same situation and subject to the rights and privileges that country would be able to assert in the same situation. Upon request, each Party shall make best efforts to provide all unclassified documents and other unclassified information relating to a designated cross-border maritime law enforcement operation that is the subject of an investigation, inquest or hearing that relates to an internal investigation or is held by a civilian oversight body.

4. The participating agency that employs a designated cross-border maritime law enforcement officer shall be solely responsible for the professional review of and discipline procedures for its participating officers. If a

participating agency undertakes any professional review and discipline procedure arising from cross-border maritime law enforcement activity, then the Central Authority shall ensure that any results from such a procedure are communicated to the other Central Authority.

5. A Party may decline to cooperate under paragraphs 3 and 4 of this Article only where such cooperation would be contrary to or inconsistent with its public policy, substantive national interests, domestic law and regulations, or interferes with an ongoing investigation or prosecution.

6. Before denying or postponing cooperation the Party, through its Central Authority, shall:

   (a) promptly inform the other Party of the reason for considering denial or postponement; and

   (b) consult with the other Party to determine whether assistance may be given subject to such terms and conditions as the Party whose cooperation is at issue deems necessary.

ARTICLE 12

Firearms, Ammunitions and Other Standard Law Enforcement Weapons

While engaging in integrated cross-border maritime law enforcement operations in shared waterways a designated cross-border maritime law enforcement officer may carry firearms, ammunition, and other standard law enforcement weapons jointly approved by the Central Authorities for the United States and Canada.

ARTICLE 13

Use of force

The designated cross-border maritime law enforcement officers shall use force only in strict accordance with the applicable laws and policies of the host country

where the use of force occurs. In all cases only force that is reasonably necessary under the circumstances shall be used.

ARTICLE 14

Information sharing

1. Subject to their domestic laws, the Parties shall assist each other in the course of integrated cross-border maritime law enforcement operations and may, for that purpose, share such information as may be necessary.

2. For the purposes of Article 14, “further sharing” means: the subsequent sharing of shared information by the receiving participating agency with, among others, a non-participating government agency or a foreign country.

3. Appropriate written arrangements shall be executed by the participating agencies regarding issues of use, further sharing, and correction of shared information, and regarding issues of storage and destruction of recorded shared information in accordance with the domestic laws of the Parties.

4. Unless required by its domestic laws or otherwise permitted by an arrangement executed pursuant to paragraph 3 of this Article, a participating agency shall not use or further share information shared pursuant to this Article for purposes other than United States-Canada integrated cross-border law enforcement operations without the consent of the participating agency sharing the information. If a participating agency uses or shares information shared pursuant to this Article according to its domestic laws, it shall, subject to exigent circumstances, provide notice to the sharing participating agency prior to such use or sharing. In case of exigent circumstances, the participating agency using or sharing the information shall provide notice to the sharing participating agency as soon as reasonably possible.

5. Designated cross-border maritime law enforcement officers shall collect information in strict accordance with the laws of the host country. A participating agency shall not use or further share information collected exclusively in the other Party’s territory or waters by its officers for purposes other than Canada-United States integrated cross-border law

enforcement operations without the consent of the Party in whose territory or waters the information was collected, unless the use or further sharing is required by its domestic laws, in which case the participating agency shall, subject to exigent circumstances, provide notice to the Party in whose territory or waters the information was collected prior to such use or sharing. In case of exigent circumstances, the participating agency using or sharing the information shall provide notice to the Party in whose territory or waters the information was collected as soon as reasonably possible. Nothing in this paragraph is intended to inhibit the Party in whose territory or waters the information was collected from sharing such information with the other Party pursuant to paragraph 1 of this Article or any other existing arrangements available to the Parties for the sharing of information.

6. Notwithstanding paragraphs 3, 4 and 5, the participating agency sharing the information or in whose territory or waters the information was collected may, in a particular instance, place additional restrictions on the use, sharing and further sharing of this information. Subject to its domestic laws, the participating agency which received or collected the information may accept and comply with any such restrictions or decline to receive or collect the information.

7. Information sharing related to evidence and testimony that may be needed in any criminal investigation and subsequent prosecution or other proceeding resulting from integrated cross-border maritime law enforcement operations shall be conducted pursuant to Article 15 of this Agreement.

8. (a) Nothing in this Agreement is intended to alter or supersede any law enforcement information exchange agreement in effect between the Parties.

   (b) Nothing in this Article is intended to preclude a Party from sharing information related to terrorism or weapons of mass destruction with non-participating agencies within its government according to its domestic laws.

ARTICLE 15

Cooperation in Proceedings

1. The participating agencies of the Parties shall fully cooperate in providing information, evidence and testimony that may be needed in any investigation and subsequent prosecution or other proceeding resulting from integrated cross-border maritime law enforcement operations.

2. Cooperation shall include:

   (a) using best efforts to facilitate a request by the other Party to provide any relevant information or evidence in the possession or control of the participating agencies; and

   (b) using best efforts to facilitate the availability and appearance of any designated cross-border maritime law enforcement officer or other employee of a participating agency in order to give testimony relevant to any prosecution or proceeding resulting from integrated cross-border maritime law enforcement operations.

3. The Central Authority of each Party, or officials designated by the Central Authority, shall have the authority to make, receive and respond to requests for information, evidence and testimony under this Article.

4. If a competent judicial authority of a Party, in relation to a prosecution or other proceeding, issues a subpoena or order relating to the production of information or evidence referenced in paragraph 2(a), or the appearance of a witness referenced in paragraph 2(b), that Party may make a request for such information, evidence or appearance pursuant to paragraph 3, and the relevant participating agency shall use best efforts to facilitate such request.

5. When the Party receiving a request believes that information, evidence or testimony sought pursuant to this Article may include, or give rise to the disclosure of, information that it views as privileged or otherwise sensitive, it shall so advise the requesting Party. Either Party may request consultations to determine whether there are limitations on disclosure, assertions of privilege, restrictions on a potential witness’s testimony or other conditions

that may be sufficient to address the concerns of the Party receiving a request.

6. Before denying or postponing the provision or facilitation of information, evidence or testimony pursuant to this Article, the Party receiving a request shall, through its Central Authority and in consultation with its relevant prosecution authorities, promptly inform the Central Authority of the requesting Party of the reason for considering denial or postponement. The Central Authority of the requesting Party shall consult with its relevant prosecution authorities to determine whether it may accept the information, evidence or testimony subject to such terms and conditions as the other Party may deem necessary. If the requesting Party accepts assistance subject to such terms and conditions, then it shall comply with said terms and conditions.

7. Unless required by domestic law, a requesting Party shall not use or disclose information, evidence or testimony provided by the other Party other than for the purposes for which it was requested without the prior consent of the Central Authority of the other Party. However, information, evidence or testimony made public in such prosecution or proceeding may thereafter be used for any purpose.

8. Nothing in this Article shall limit or otherwise affect the rights and obligations of the Parties under other agreements or treaties governing cooperation and mutual assistance in the investigation, prosecution and suppression of crime.

ARTICLE 16

Dispute Resolution

1. The Parties shall seek to resolve the disputes between them that may arise in interpreting or applying this Agreement through consultations between Central Authorities.

2. The Parties shall consult promptly at the request of either Party concerning any dispute which has not been resolved by the Central Authorities.

ARTICLE 17

Expenses and Operational Costs

1. Subject to availability of funds, the Parties shall assume the expenses and operational costs of their respective human and material resources.

2. Costs arising from the implementation of Article 15 of this Agreement shall be dealt with as follows:

   (a) The Requested Party shall assume all ordinary expenses of executing a request for cooperation within its boundaries, except:

      (i) fees of experts;

      (ii) expenses of translation, interpretation and transcription; and

      (iii) travel and incidental expenses of persons travelling to the Requested Party's territory to attend the execution of a request for cooperation.

   (b) A Requesting Party shall assume all ordinary expenses required to present evidence from the Requested Party in the Requesting Party's territory, including:

      (i) travel and incidental expenses of witnesses travelling to the Requesting Party's territory, including those of accompanying officials; and

      (ii) fees of experts.

   (c) If it becomes apparent that expenses of an extraordinary nature are required to fulfill a request for cooperation, the Parties shall consult to determine the terms and conditions under which the cooperation will continue.

   (d) The Parties shall agree on practical measures as appropriate for the reporting and payment of costs in conformity with this Article.

ARTICLE 18

Effect on Rights and Privileges

1. This Agreement creates rights and obligations between the Parties.

2. Nothing in this Agreement:

   (a) creates, alters or confers the rights, privileges and benefits due to any person or entity in any administrative or judicial proceeding conducted under the jurisdiction of either Party;

   (b) shall give rise to a right on the part of a private party or entity to obtain, suppress or exclude any evidence or to impede the execution of a request for evidence;

   (c) shall in any way limit the rights and authority of any designated cross-border maritime law enforcement officer while operating in his or her country;

   (d) shall be construed to alter existing international agreements or other arrangements pertaining to Mutual Legal Assistance between the Parties; and

   (e) shall constitute a precedent for any future discussions or negotiations between the Parties.

ARTICLE 19

Entry into force, Amendment and Termination of the Agreement

1. This Agreement shall enter into force upon an exchange of diplomatic notes confirming that the necessary internal procedures of each Party therefor have been completed.

2. Any amendment of this Agreement must be agreed in writing by the Parties and shall enter into force upon an exchange of diplomatic notes confirming that the necessary internal procedures of each Party therefor have been completed.

3. This Agreement may be terminated by either Party by written notification to the other Party. The termination shall take effect six months from the date of such notification.

4. Notwithstanding paragraph 3 of this Article, the obligations contained in Article 15 shall continue for prosecutions that have been commenced prior to the time of termination until such prosecutions are over.

5. In case of termination, the Government of the United States of America and the Government of Canada shall reach agreement on the return or destruction, or continued use and storage, of the information that has already been communicated between them.

6. The Parties agree to meet in order to review this Agreement at the end of five years from the date of its entry into force.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective Government, have signed this Agreement.

DONE at Detroit, this twenty-sixth day of May 2009, in duplicate, in the English and French languages, both versions being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:	**FOR THE GOVERNMENT OF CANADA:**